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COMMISSION ON HUMAN RIGHTS  
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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY  
FORM OF DETENTION OR IMPRISONMENT

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS  
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND  
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Lawyers Committee for Human Rights,  
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement  
which is circulated in accordance with Economic and Social Council  
resolution 1296 (XLIV).

[11 February 1998]

The situation of human rights in Northern Ireland

1. The peace talks in Northern Ireland are at a critical juncture. The divisions in Northern Ireland are deep, and compromises on the ultimate political questions will be very difficult to reach. The Lawyers Committee for Human Rights believes that human rights violations were central in creating this conflict, and their termination remains essential to its successful resolution. Measures that would enhance human rights protection can build confidence on all sides, and allow the wider work of determining agreed political structures to take place.

2. Dr. Marjorie Mowlam, the Secretary of State for Northern Ireland, addressed this point in a speech in New York in November 1997. She said:

"We all have a responsibility to help build trust and confidence where we can. Northern Ireland needs guaranteed human rights. People there want to feel secure and confident. Civil rights abuses helped start the current troubles, and I hope guaranteeing basic human rights will help end them. As a major step we will be bringing the European Convention of Human Rights in law in Britain and Northern Ireland for the first time. And we are encouraging the parties to the talks to develop for themselves a home-grown bill of rights".

3. Some have argued that the resolution of these issues should await - and will flow inexorably from - resolution of the larger political impasse. The Lawyers Committee for Human Rights believes the opposite is true. For the parties to be willing to compromise their positions relating to political control and power, they must do so from a position of confidence that their basic rights will ultimately be protected.

4. The Lawyers Committee for Human Rights urges members of the Commission to focus on four areas:

(a) The emergency legal regime in Northern Ireland should be brought into line with principles of international law. A process should be set in place now that will lead to the repeal of emergency legislation. As we have noted in the past, emergency powers in Northern Ireland have been linked to serious human rights violations, fueling and exacerbating the conflict rather than facilitating its resolution. Basic due process rights continue to be denied to citizens in Northern Ireland. Trials involving those charged with security offences are subject to special procedures that lower standards of admissibility for evidence, limit access to bail and extend pre-charge detention in contravention of international standards.

(b) As the United Kingdom Government moves to incorporate the European Convention of Human Rights into domestic law, it should both withdraw its derogation from article 5 (3) of the Convention and comply with the judgement of the European Court of Human Rights in the Murray case (February 1996) which found that the Government was in breach of the right of fair trial because of restrictions on the right to legal advice and the effective removal of the rights to remain silent during interrogation.

(c) The United Kingdom Government should encourage the widest possible consultation with civil society with respect to the content and enforcement of a Bill of Rights. The Government should also draw on international experts to advise on the content, articulation and promotion of a Bill of Rights for Northern Ireland.

(d) The United Kingdom Government should be encouraged to initiate a review of miscarriages of justice cases, including the 1989 murder of Patrick Finucane. The Lawyers Committee for Human Rights welcomes the recently announced judicial inquiry into the killing of 14 unarmed marchers in Londonderry in January 1972. In announcing the creation of a three-judge international panel Prime Minister Blair said, "Bloody Sunday was a tragic day for all concerned. We must all wish it had never happened. Our concern now is simply to establish the truth and close this painful chapter once and for all".

5. The United Kingdom Government's welcome action in this case establishes an important precedent that it should now apply to other cases as well. Specifically, it should initiate an independent public inquiry into the murder of prominent defense lawyer Patrick Finucane in his home in 1989. In 1992 a call for an independent inquiry in this case was made at the Sub-Commission on the Prevention of Discrimination and Protection of Minorities by Professor Claire Palley, the independent expert nominated by the Government of the United Kingdom. Last fall, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Mr. Kumaraswamy, visited Northern Ireland. In preliminary observations at the end of his visit he reiterated the call for an independent inquiry on the Finucane case.

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